

August 1, 2006

Mr. Michael Sinclair  
Rumford Paper Company, Rumford Mill  
35 Hartford Street  
Rumford, Maine 04276

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit ME0002054  
Maine Waste Discharge License (WDL) Application W000955-5N-H-M  
**Final Permit/License Modification**

Dear Mr. Sinclair:

Enclosed please find a copy of your **final** combination MEPDES permit/Maine WDL which was approved by the Department of Environmental Protection. Please read the permit/license and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State Law and is subject to enforcement action.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

Gregg Wood  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

cc: Electronic distribution list

## IN THE MATTER OF

RUMFORD PAPER COMPANY	)	MAINE POLLUTANT DISCHARGE
RUMFORD, OXFORD COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
PULP & PAPER MANUFACTURING FACILITY	)	AND
ME0002054	)	WASTE DISCHARGE LICENSE
W000955-5N-H-M	)	<b>MODIFICATION</b>
<b>APPROVAL</b>		

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq., and Maine Law 38 M.R.S.A., Section 414-A et. seq., [more specifically 38 MRSA §§ 414-A(5)(A&B)] and all applicable regulations [more specifically 06-096 CMR Chapter 522(4)], the Department of Environmental Protection (Department hereinafter) is hereby modifying the combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002054/Maine Waste Discharge License (WDL) #W000955-5N-G-R (permit hereinafter) issued to the RUMFORD PAPER COMPANY (RPC hereinafter), on September 21, 2005. With its supportive data, agency review comments, and other related materials on file, the Department FINDS THE FOLLOWING FACTS:

### PERMIT SUMMARY

The Department is modifying the aforementioned MEPDES permit/WDL by eliminating the schedule to come into compliance with water quality based mass limitations for total suspended solids (TSS) and modifying the schedule to come into compliance with the water quality based limitations for total phosphorus and ortho-phosphorus. The modifications are as follows:

1. Eliminating in its entirety, the schedule for compliance with the 60-day rolling average water quality limits for TSS. It is noted the September 21, 2005 permit established interim mass limitations with a schedule for compliance with final limitations on or before June 1, 2010.
2. Modifying the final date in the schedule of compliance for the summertime total phosphorus and ortho-phosphorus mass limitations of 152 lbs/day and 97 lbs/day respectively, from June 1, 2010 to June 1, 2008.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated May 11, 2006 and subject to the terms and conditions contained herein, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, 38 M.R.S.A., Section 464(4)(F), will be met, in that:
  - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
  - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
  - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
  - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and
  - (e) Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment.
5. This permit modification is necessary to correct technical or procedural mistakes or errors in the September 21, 2005 permit issued by the Department and is necessary as new information has become available subsequent to the issuance of the September 21, 2005 permit.

**ACTION**

THEREFORE, the Department is hereby modifying combination MEPDES permit #ME0002054/WDL W000955-5N-G-R, issued by the Department on September 21, 2005, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including;

1. The attached Special Conditions, including effluent limitations and monitoring requirements.
2. All terms and conditions in combination MEPDES permit #ME0002054/WDL#W000955-5N-G-R, dated September 21, 2005, [except that Special Condition K(b) was stayed by the Board of Environmental Protection on March 22, 2006] not modified by this permitting action remain in effect and enforceable.
3. *“Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,”* revised July 1, 2002, copy attached.
4. This permit modification expires on September 21, 2010, concurrent with combination MEPDES permit #ME0002054/WDL#W000955-5N-G-R issued by the Department on September 21, 2005.

DONE AND DATED AT AUGUSTA, MAINE, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2006.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
DAVID P. LITTELL, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date filed with Board of Environmental Protection \_\_\_\_\_

This order prepared by GREGG WOOD, BUREAU OF LAND AND WATER QUALITY

W9555NHM                      8/1/06

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**OUTFALL #001 – Secondary treated waste waters**

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u> as specified
<b>Beginning upon issuance</b> <u>TSS</u> [00530] <i>(June 1 – Sept 30)</i>    <i>(Oct 1 – May 31)</i>	15,500 #/day	---	40,000 #/day	---	---	---	5/Week [05/07]	Composite [24]
	11,000 #/day <sup>(2)</sup>	---	---	---	---	---	1/Day [01/01]	Calculate [CA]
	32,900 #/day	---	50,000 #/day	---	---	---	5/Week [05/07]	Composite
	15,952 #/day <sup>(3)</sup> [26]	---	---	---	---	---	1/Year [01/YR]	Calculate

**Footnotes:**

- (2) 60–day rolling average defined as the average of sixty consecutive daily TSS discharges between June 1<sup>st</sup> - September 30<sup>th</sup> to be reported in the July, August, and September DMRs. The 60-day rolling average limit of 11,000 lbs/day becomes effective on June 1, 2006.
- (3) Annual average defined as January 1<sup>st</sup> – December 31<sup>st</sup> of each year beginning calendar year 2006.

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**OUTFALL #001 – Secondary treated waste waters**

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u> as specified
<u>Total Phosphorus</u> [00665] (June 1 – September 30)								
(Begin upon issuance)	160 #/day	---	Report #/day	Report mg/L <sup>(4)</sup>	---	Report mg/L <sup>(4)</sup>	3/Week [03/07]	Composite
(Beginning June 1, 2008)	152 #/day[26]	---	Report #/day [26]	Report mg/L <sup>(4)</sup> [19]	---	Report mg/L <sup>(4)</sup> [19]	3/Week [03/07]	Composite[24]
<u>Ortho-phosphorus</u> [70507] (June 1 – September 30)								
(Begin upon issuance)	107 #/day	---	Report #/day	Report mg/L <sup>(4)</sup>	---	Report mg/L <sup>(4)</sup>	3/Week [03/07]	Composite
(Beginning June 1, 2008)	97 #/day[26]	---	Report #/day[26]	Report mg/L <sup>(4)</sup> [19]	---	Report mg/L <sup>(4)</sup> [19]	3/Week [03/07]	Composite[24]
<u>Oxygen Injection</u> (June 1 – Sept. 30)								
(Begin upon issuance)	---	---	Report #/day <sup>(5)</sup>	---	---	---	1/Day[01/01]	Record[RC]
(Beginning June 1, 2010)	---	---	39,900 #/day <sup>(6a)</sup>	---	---	---	1/Day[01/01]	Record[RC]
	---	---	9,573#/day <sup>(6b)</sup> [26]	---	---	---	1/Day[01/01]	Record [RC]

**Footnotes:**

(4) Report two (2) significant figures.

(5) Injected at Upper Narrows. See Special Condition K, *Gulf Island Pond Oxygen Injection Operation*.

(6a) At Upper Narrows. Assumes RPC injects 9,573 lbs (assumes 33% efficiency) at Lower Narrows or an equivalent amount given an alternate efficiency.

(6b) At Lower Narrows. Assumes RPC injects 39,900 lbs (assumes 33% efficiency) at Upper Narrows or an equivalent amount given an alternate efficiency.

## SPECIAL CONDITIONS

### F. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13<sup>th</sup>) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15<sup>th</sup>) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the following addresses:

Maine Department of Environmental Protection  
Central Maine Regional Office  
Bureau of Land & Water Quality  
Division of Water Quality Management  
State House Station #17  
Augusta, ME. 04333

### Q. SCHEDULE OF COMPLIANCE

1. **On or before December 1, 2007, [PCS Code 95999]** the permittee shall submit to the Department for review and approval, with or without conditions, a report evaluating the results of the study plan entitled, *Special Condition Q1: Nutrient Pollution Prevention & Biological Treatment Study Plan* submitted to the Department on June 2, 2006. The report shall include, but not be limited to, an evaluation of the plant's phosphorus performance and the BOD & TSS treatment performance in a low phosphorus environment and shall include a scope of work and schedule to implement improvements, recommendations, process control measures or other like measures found necessary and appropriate for compliance with the permit limits. All such measures and will be completed as soon as possible.
2. **On or before December 1, 2006, [PCS Code 00199]** and **December 1, 2007, [PCS Code 00299]** the permittee shall submit to the Department, progress reports describing the current performance of the wastewater treatment system, manufacturing and treatment changes occurring in the previous 12-month period, compliance with the terms of this schedule of compliance, improvements proposed for the following 12-month period and the expected results from those improvements to come into compliance with interim and final total and ortho-phosphorus limitations.

## **SPECIAL CONDITIONS**

### **Q. SCHEDULE OF COMPLIANCE (cont'd)**

3. **As soon as possible, but in no event later than June 1, 2008 [PCS Code 05699]** the permittee shall be in compliance with applicable limitations for total phosphorus and ortho-phosphorus.
4. At any time during the term of this schedule of compliance, and based on the findings of aforementioned studies/evaluations, effluent monitoring and other information, the permittee may petition the Department to suspend further actions. If the Department finds that work done to that point reasonably ensures that permittee is in compliance with any or all final effluent limit(s) pursuant to Special Condition A, *Effluent Limitations and Monitoring Requirements*, the Department will authorize the permittee to suspend further work related to the pollutant(s), provided the permittee remains in compliance with the final effluent limit(s). Nothing in this paragraph may be construed to extend or modify the compliance dates contained herein, or in any way alter final effluent limits. Specifically, suspension of work shall not be considered as a basis for extending the time for compliance with final effluent limits.

### **R. REOPENING OF PERMIT FOR MODIFICATIONS**

Upon evaluation of the tests results specified by the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at anytime and with notice to the permittee, modify this permit to: 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information considering ambient water quality conditions.

### **S. SEVERABILITY**

In the event that any provision, or part thereof, of this permit modification is declared to be unlawful by a reviewing court, the remainder of the permit shall remaining in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.



**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
AND  
MAINE WASTE DISCHARGE LICENSE**

**FACT SHEET**

Date: **May 11, 2006**

PERMIT NUMBER: **ME0002054**

LICENSE NUMBER: **W000955-5N-H-M**

NAME AND ADDRESS OF APPLICANT:

**RUMFORD PAPER COMPANY  
35 Hartford Street  
Rumford, Maine 04276**

COUNTY: **Oxford County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Rumford Mill  
35 Hartford Street  
Rumford, Maine 04276**

RECEIVING WATER AND CLASSIFICATION: **Androscoggin River/ Class C**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Michael Sinclair, Env. Eng.  
(207) 369-2302**

**1. PERMIT SUMMARY**

- a. Regulatory - Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq., and Maine Law 38 M.R.S.A., Section 414-A et. seq., [more specifically 38 MRSA §§ 414-A(5)(A&B)] and all applicable regulations [more specifically 06-096 CMR Chapter 522(4)], the Department of Environmental Protection (Department hereinafter) is hereby modifying the combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002054/Maine Waste Discharge License (WDL) #W000955-5N-G-R (permit hereinafter) issued to the Rumford Paper Company (RPC hereinafter), on September 21, 2005. It is noted all other terms and conditions of the September 21, 2005 permit not modified by this permitting action remain in effect and enforceable.

38 MRSA 414-A, §5 *Modification, reopening and revocation* states “The following actions may be taken to reopen, modify or revoke and reissue waste discharge licenses. All actions taken under this subsection must be with notice to the licensee and all other interested parties of record and with opportunity for hearing. Actions may be appealed as set forth in sections 341-D and 346.

## 1. PERMIT SUMMARY

- A. *The department may reopen a license to add or change conditions or effluent limitations for toxic compounds identified in 40 Code of Federal Regulations, Section 401 or to include schedules of compliance to implement industrial pretreatment rules adopted by the board. Additionally, at the time of license issuance, the department may include as a condition of a license a provision for reopening the license for inclusion or change of specific limitations when facts available upon issuance indicate that changed circumstances or new information may be anticipated.*
- B. *A request for modification of a license may be made by the licensee for any valid cause or changed circumstance. The department may initiate a license modification:*
- (1) When necessary to correct legal, technical or procedural mistakes or errors;*
  - (2) When there has been or will be a substantial change in the activity or means of treatment that occurred after the time the license was issued;*
  - (3) When new information other than revised rules, guidance or test methods becomes available that would have justified different conditions at the time the license was issued;*
  - (4) When a pollutant not included in the license may be present in the discharge in quantities sufficient to require treatment, such as when the pollutant exceeds the level that can be achieved by the technology-based treatment standards appropriate to the licensee, or contribute to water quality violations;*
  - (5) When necessary to remove net limits based on pollutant concentration in intake water when the licensee is no longer eligible for them, consistent with federal law;*
  - (6) When necessary to make changes as a result of the failure of one state to notify another state whose waters may be affected by a discharge; or*
  - (7) When necessary to include pretreatment compliance schedules required pursuant to federal law.*

Department rule 06-096 CMR, Chapter 522, §4, *Modification, revocation and reissuance, or termination of permits* states in part;

- (a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in 38 MRSA § 414-A(5). All requests shall be in writing and shall contain facts or reasons supporting the request.*

**1. PERMIT SUMMARY (cont'd)**

*(c)(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued*

- b. Terms and Conditions The Department is modifying the aforementioned MEPDES permit/WDL by eliminating the schedule to come into compliance with the 60-day rolling average water quality based mass limitations for total suspended solids (TSS) and modifying the schedule to come into compliance with the water quality based limitations for total phosphorus and ortho-phosphorus. The modifications are as follows:
1. Eliminating in its entirety, the schedule for compliance with the 60-day rolling average water quality limits for TSS. It is noted the September 21, 2005 permit established interim mass limitations with a schedule for compliance with final limitations on or before June 1, 2010.
  2. Modifying the final date in the schedule of compliance for the summertime total phosphorus and ortho-phosphorus mass limitations of 152 lbs/day and 97 lbs/day respectively, from June 1, 2010 to June 1, 2008.
- c. History: - The most recent significant and relevant regulatory actions for the RPC's Rumford mill are as follows:
1. *September 21, 2005* - The Department issued MEPDES permit #ME0002054/WDL #W000955-5N-H-M for a five-year term.
  2. *October 21, 2005* - RPC and several interested parties filed timely appeals of the MEPDES permit/WDL with the Board of Environmental Protection (Board).
  3. *March 22, 2006* – The Board issued a Motion To Stay Procedural Order that stayed Special Condition K, *Gulf Island Pond Oxygen Injection Operation*, §b, *Schedule of Compliance*. The motion order stayed the schedule of compliance until the Board issues a decision on the appeal of the permit at which time the Board would establish a new compliance of schedule.

## 2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Total Suspended Solids (TSS) - The Fact Sheet of the September 21, 2005 permit included the following italicized text;

*This permit establishes seasonal monthly average, 60-day average and annual average water quality based limitations for TSS. Special Condition A, Effluent Limitations and Monitoring Requirements, of this permit establishes a five-year schedule to come into compliance with the final water quality based limitations for TSS. Maine law 38 M.R.S.A. §414(2) Schedules of Compliance, authorizes the Department to establish schedules of compliance for water quality based limitations within the terms and conditions of a license. The schedule may include interim and final dates for attainment of specific standards and must be as short as possible based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards. In addition Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, Schedules of Compliance, states in part, "if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement. See Special Condition Q, Schedule of Compliance, of this permit for specifics on the tasks and deadlines within the five-year schedule.*

*This permit establishes seasonal monthly average, 60-day average and annual average TSS limitations. Beginning June 1, 2010, the final summertime 60-day average (June 1 – September 30) limitation of 11,000 lbs/day is being established as a TMDL recommended limit to mitigate the adverse affects of settleable solids on the macro-invertebrate community in the Livermore Falls impoundment. The interim 60-day average limit of 12,200 lbs/day is being established based on negotiations between the Department and permittee and becomes effective on June 1, 2006. The summertime monthly average limit of 15,500 is being established and is also based on negotiations between the Department and permittee. The non-summertime monthly average limitation of 32,900 lbs/day is being carried forward from the previous licensing action. The summertime and non-summertime daily maximum limitations of 40,000 lbs/day and 50,000 lbs/day respectively, are being established based on negotiations between the Department and permittee. The annual average limitation of 15,952 lbs/day is a TMDL recommended limit and is being established to reduce the contribution of sediment oxygen demand to non-compliance in GIP.*

## 2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

*Should the permittee request to do so, the Department will consider pollutant trading in accordance with EPA's January 13, 2003, Water Quality Trading Policy. The TMDL has established the trading caps for specific pollutant loadings to GIP to meet water quality standards as well as trading ratios between discharges based on their proximity to GIP and other dischargers.*

*A summary of the TSS limitations in this permitting action is as follows:*

	<i>Monthly Avg.</i>	<i>60-Day Avg.</i>	<i>Annual Avg.</i>	<i>Daily Maximum</i>
<i><u>June 1 – Sept 30</u> Beginning upon issuance</i>	<i>15,500 lbs/day</i>	<i>---</i>	<i>---</i>	<i>40,000 lbs/day</i>
<i><u>June 1 – Sept 30</u> Beginning June 1, 2006 Beginning June 1, 2010</i>	<i>15,500 lbs/day 15,500 lbs/day</i>	<i>12,200 lbs/day 11,000 lbs/day</i>	<i>15,952 lbs/day 15,952 lbs/day</i>	<i>40,000 lbs/day 40,000 lbs/day</i>
<i><u>Oct 1 – May 31</u> Beginning Oct. 1, 2005</i>	<i>32,900 lbs/day</i>	<i>N/A</i>	<i>---</i>	<i>50,000 lbs/day</i>
<i><u>Oct 1 – May 31</u> Beginning January 1, 2006</i>	<i>32,900 lbs/day</i>	<i>N/A</i>	<i>15,952 lbs/day</i>	<i>50,000 lbs/day</i>

*Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, Schedules of Compliance, states in part, “if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.*

- (i) The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.*
- (ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.*

*Special Condition Q, Schedule of Compliance, of this permit sets forth interim requirements (in the form of studies/evaluations) and dates for achieving said studies/evaluations pursuant to Chapter 523. In addition, Special Condition Q establishes submission of annual progress reports to the Department for the term of the five-year schedule.*

## 2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

### OUTFALL #001A & 001B (Final effluent)

*The final effluent limits for TSS may be changed, consistent with governing statutes and regulations, by subsequent permit modifications or renewals issued by the Department resulting from revisions to the TMDL or other new information. Any such changes must meet anti-backsliding requirements contained in Department rules, Chapter 523, §5(l) and 33 U.S.C. §1342(o).*

Pursuant to Maine law 38 M.R.S.A. §414-A(5)(B)(1), *Modification, Reopening and Revocation*, the Department is initiating this modification in part to correct technical and procedural mistakes that were made in establishing the schedule of compliance with limitations for TSS in the September 21, 2005 permit.

Attachment A of this Fact Sheet depicts a graphical presentation of the limitation established in this permitting action superimposed on the historic 60-day rolling average TSS effluent data reported to the Department dating back to at least July of 2000. The graph indicates that RPC has demonstrated through proper operation of its waste water treatment facility that it has been in substantial compliance with the TSS limitation in this permitting action dating back to 2000. The Department's mistake was that it failed to adequately consider historic TSS data for the facility in determining whether to include a schedule of compliance in the permit. As a result, the Department erred by including a compliance schedule that was not necessary. Therefore, this permitting action is eliminating the schedule in its entirety.

A summary of the TSS limitations in this permitting action is as follows:

	Monthly Avg.	60-Day Avg.	Annual Avg.	Daily Maximum
<u>June 1 – Sept 30</u> Beginning upon issuance	15,500 lbs/day	11,000 lbs/day	15,952 lbs/day	40,000 lbs/day
<u>Oct 1 – May 31</u>	32,900 lbs/day	N/A	15,952 lbs/day <sup>(1)</sup>	50,000 lbs/day

Footnote:

(1) Beginning January 1, 2006

## 2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

- b. Total phosphorus and Ortho-phosphorus – The Fact Sheet of the September 21, 2005 permit included the following italicized text;

*This permitting action is establishing seasonal (June 1 – September 30) monthly average total phosphorus and ortho-phosphorus mass limitations. The final limitations of 152 lbs/day and 97 lbs/day respectively, were based on the recommendations in the May 2005 final TMDL and were derived based on mass discharge values for both parameters for the period May 1 – September 30, 2004. This permitting action also establishes a seasonal (June 1 – September 30) monthly average and daily maximum reporting requirement for concentration for both parameters to track discharge performance as well as a monitoring frequency of 3/Week.. The permittee has indicated that the proposed mass limits were exceeded in July of 2004, and that there has been insufficient opportunity at the waste water treatment facility to observe if these nutrients levels are adequate to continuously to sustain a healthy biological community in the aeration basin during summer temperatures.*

*As with TSS, this permit establishes a schedule of compliance pursuant to Maine law 38 M.R.S.A., §414(2) Schedules of Compliance, and Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, Schedules of Compliance, such that final mass limit consistent with the TMDL recommendations become effective June 1, 2010. The permit also establishes interim limitations for the period beginning the effective date of the permit, and lasting through June 1, 2010. Based on the collective list of studies and evaluations listed in Special Condition Q of this permit, the Department has deemed a schedule of five years to be necessary and is as short as possible based on consideration of the technological, economic and environmental impact of the steps necessary to meet some combination of total phosphorus and ortho-phosphorus limitations in this permit.*

## **2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)**

### **OUTFALL #001 (Final effluent)**

*At the permittee's written request, the Department may approve another combination of total phosphorus and ortho-phosphorus discharge limits that is equally protective of water quality in the Gulf Island Pond. A written request shall be based on the methods of evaluation used in the TMDL.*

*Maine law 38 M.R.S.A, §465 (as amended via P.L. 2005, Chapter 409), the State Legislature found that "the mitigation of water quality impairments on certain Class C waters requires extraordinary limitations on the discharge of certain pollutants, including phosphorus, that will reasonably necessitate longer than usual time frames for implementation."*

*Maine law 38 M.R.S.A. §465-B(5) (as amended via P.L. 2005, Chapter 409) states:*

*Water quality modeling. The Department of Environmental Protection shall supervise additional modeling of Gulf Island Pond on the Androscoggin River in order to review and, as appropriate, revise the total maximum daily load for phosphorus.*

- 1. The additional modeling must be done under contract to the department and funded by those dischargers seeking additional information on the present total maximum daily load for phosphorus.*
- 2. The additional modeling must be based on ambient data collected under reduced loading conditions to Gulf Island Pond, including model parameters such as sediment oxygen demand, chlorophyll-a concentration at critical conditions and phosphorus assimilation and mineralization rates.*
- 3. The model revisions must be completed by March 15, 2009 and submitted to the Department of Environmental Protection and a 3rd-party peer reviewer for review and evaluation. The 3rd-party peer reviewer must be approved by the joint standing committee of the Legislature having jurisdiction over natural resources matters.*
- 4. The peer reviewer shall submit recommendations on the model revisions and any revised total maximum daily load for phosphorus to the Department of Environmental Protection by June 15, 2009. By September 15, 2009, the department shall publish for review and public comment a revised modeling report and total maximum daily load for phosphorus that is based on the peer reviewer's recommendations.*
- 5. By March 15, 2010, the Department of Environmental Protection shall issue revised licenses, as needed, that are based on the revised and approved total maximum daily load report for phosphorus created as a result of the modeling revisions pursuant to this section.*



## 2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

### OUTFALL #001 (Final effluent)

6. *Any reallocation of phosphorus among licensed dischargers contributing to algae blooms in Gulf Island Pond must take into consideration all prior total maximum daily load allocations, license limits and attainment of interim or final phosphorus limits as issued in prior total maximum daily loads or licenses so as not to create inequities in regard to attainment of prior phosphorus limits. The purpose of this subsection is to prevent penalizing dischargers who have attained early compliance with prior license limits or total maximum daily load allocations.*
7. *Any change in license limits based on a revised and approved total maximum daily load for phosphorus must comply with anti-backsliding requirements contained in state and federal law.*
8. *The Department of Environmental Protection is not obligated to make revisions to the model or existing approved total maximum daily load if funding is not provided for the additional work described in this section.*
9. *It is the intent of the Legislature that dischargers shall make continuous progress in actual effluent reductions towards reaching final allocations under the total maximum daily load allocations in existence on the effective date of this section or as revised under this section to March 15, 2010.*

*The final effluent limits for total phosphorus or ortho-phosphorus may be changed, consistent with governing statutes and regulations, by subsequent permit modifications or renewals issued by the Department resulting from revisions to the TMDL or other new information. Any such changes must meet anti-backsliding requirements contained in Department rules, Chapter 523, §5(l) and 33 U.S.C. §1342(o).*

Pursuant to Maine law 38 M.R.S.A. §414-A(5)(B)(3), the Department is initiating this modification in part to establish new interim monthly average mass limits for total phosphorus and ortho-phosphorus and the associated schedule of compliance with said limits based on new information regarding discharge levels of total phosphorus and ortho-phosphorus subsequent to the issuance of the September 21, 2005 permit.

Prior to issuance of the September 21, 2005 permit, RPC was not required to monitor and report test results for total phosphorus and ortho-phosphorus to the Department. Between 9/21/05 and 9/30/05, RPC sampled and reported total phosphorus and ortho-phosphorus values to the Department that called into question RPC's schedule of compliance. RPC has since submitted all of its phosphorus data dating back to the summer of 2004. See Attachment B of this Fact Sheet for a graphical presentation of the data for the summers of 2004 and 2005. With the exception of the month of July 2004, RPC has demonstrated compliance with the final monthly average limits for both total phosphorus and ortho-phosphorus.

**2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)****OUTFALL #001 (Final effluent)**

The Department has determined the monthly average interim limits in the 9/21/05 permit for total phosphorus and ortho-phosphorus are not justifiable under statutory licensing criteria. Similarly, the Department has determined the five-year schedule established in the 9/21/05 permit for compliance with the final limits of 152 lbs/day for total phosphorus and 97 lbs/day for ortho-phosphorus as is not justifiable under statutory licensing criteria. However, given the dramatic decrease from 2004 to 2005 values in Attachment B, the Department believes it is necessary and appropriate to establish a two-year schedule of compliance for both parameters given the uncertainty in maintaining such low discharge levels while maintaining a healthy and efficient biological treatment system. Therefore, this permit modification is establishing new interim monthly average mass limits for total phosphorus and ortho-phosphorus and a new two-year schedule of compliance based on a best professional judgment by the Department taking into consideration historic effluent data and the technological, economic and environmental impact of the steps necessary to attain those standards.

A summary of the phosphorus limitations in this permitting action are as follows:

<u>Parameter</u>	<u>Monthly Average</u>
<u>Total phosphorus</u>	
Beginning upon issuance	160 lbs/day
Beginning June 1, 2008	152 lbs/day
<u>Ortho-phosphorus</u>	
Beginning upon issuance	107 lbs/day
Beginning June 1, 2008	97 lbs/day

In addition to modifying limitations and schedules of compliance for the 60-day rolling average limit for TSS and the monthly average limits for phosphorus, this permit is modifying the terms and conditions of Special Condition Q, *Schedule of Compliance*, to coincide with the limits and schedules modified above.

**3. DISCHARGE IMPACT ON RECEIVING WATER QUALITY**

As permitted (based in part on the recommendations in May 2005 final TMDL), the Department has determined the existing water uses will be maintained and protected and anticipates additional improvements in water quality after implementation of water quality based limits herein that will result in the discharge not causing or contributing to the failure of the Androscoggin River to meet standards of its assigned Class C classification.

#### **4. PUBLIC COMMENTS**

Those persons receiving copies of draft permit or parties that have expressed interest in this permitting action shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

#### **5. DEPARTMENT CONTACTS**

Additional information concerning this permitting action may be obtained from and written comments should be sent to:

Gregg Wood  
Division of Water Quality Management  
Bureau of Land and Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017  
E-mail: [gregg.wood@maine.gov](mailto:gregg.wood@maine.gov)

Telephone: (207) 287-7693

#### **6. RESPONSE TO COMMENTS**

During the period May 11, 2006 through issuance of this permit modification, the Department solicited comments on the proposed draft permit modification for the RPC mill from state and federal agencies as well as parties that expressed interest in the proposed draft permit. The Department has received written comments from a number of parties/organizations that include but are not limited to the Rumford Paper Company (RPC), the Conservation Law Foundation (CLF), the Natural Resources Council of Maine (NRCM), Maine Rivers, Androscoggin River Alliance (MRA) (the Environmental Groups) the Maine Pulp & Paper Association (MPPA), the Maine Chamber of Commerce, the Pulp and Papermakers Resource Council and the U.S. Environmental Protection Agency.

The responses that follow have been organized by subject matter rather than by individual commenters as more than one or several entities had similar comments on any given subject matter. In some instances comments presented opposing points of view on the same topic. It is noted that some commenters submitted comments jointly on both the draft permit modification for RPC and the draft permit modification for International Paper Company. Therefore, some of the comments may not be relevant to the RPC permit. The Department has prepared the following responses to significant comments that did or could have resulted in substantive changes to the permit.

##### **a. Compliance schedules**

**Comment # 1** - Commenters have objected to the Department establishing schedules of compliance for certain parameters limited in the permit. The commenters assert that the schedules of compliance are illegal pursuant to State law and federal regulations and even if they were legal, the schedules are not as short as possible. Two of the commenters stated that for water quality standards that pre-date July 1, 1977, the permit must ensure

**6. RESPONSE TO COMMENTS (cont'd)**

**a. Compliance schedules**

immediate compliance with those standards: that is, any necessary additional effluent limitations must become effective upon issuance of the permit. The commenters cited a) instantaneous dissolved oxygen of 5 parts per million, b) recreational boating and fishing, and c) disposal of substances that will impart color, odor, turbidity or other properties which would impair the uses of recreational fishing and boating and fish habitat as pre-July 1, 1977 water quality standards that are being violated.

As for post-July 1, 1977 water quality standards (a commenter cited the 30-day average dissolved oxygen criteria of 6.5 ppm and the biological water quality criteria established pursuant to 38 M.R.S.A. §464(5)), the commenters assert the schedule established in the permit modification fails to meet all the criteria as set forth in 38 M.R.S.A. §414-A(2). The commenter asserts the Department has taken into consideration the permittee's technical concerns and abilities but has failed to conduct an analysis of the economic and environmental impacts of delayed compliance with state water quality standards or of the trade offs involved in balancing these considerations.

The permittee and another commenter commented that the compliance schedules established in the original permit issued on September 21, 2005 are appropriate and should not be changed.

**Response # 1** – The Department disagrees with the commenters' statement that schedules of compliance are illegal. Maine law 38 M.R.S.A. §414(2) *Schedules of Compliance*, clearly authorizes the Department to establish schedules of compliance for water quality based limitations within the terms and conditions of a license. The law states that the schedule(s) may include interim and final dates for attainment of specific standards necessary to carry out the purposes of the law and must be as short as possible based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards. The EPA has acknowledged that a schedule of compliance is permissible for the term of a permit (or longer if necessary) if the schedule is justified and is as short as possible based on consideration of the technological, economic and environmental impact of the steps necessary to attain State water quality standards.

In addition to the statute cited above, Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, *Schedules of Compliance*, states in part, "if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

- (ii) The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

## 6. RESPONSE TO COMMENTS (cont'd)

### a. Compliance schedules (cont'd)

- (ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.”

Special Condition Q, *Schedule of Compliance*, of the permit establishes interim requirements.

The only schedule of compliance in this permit modification is a schedule for compliance with final phosphorus limits. The two-year schedule of compliance is shorter than the five-year schedule established in the permit issued on September 21, 2005. The shorter schedule is based on new information that became available after the issuance of the 9/21/05 permit. Phosphorus limits are important for two related reasons. First, phosphorus is a critical factor in promoting excess growth of algae, and these growths can cause objectionable blooms that impair uses such as swimming. The designated use of swimming in Class C waters was added after 1977. Historically, the transmission of sunlight through the water column was hindered by the highly colored water, thus preventing the growth of algae, notwithstanding available phosphorus concentrations. Legislation requiring color reductions in pulp mill discharges was enacted in 1989 and the resulting reduced color in the river allowed the growth of objectionable levels of algae that periodically impair swimming as a designated use. From information in the TMDL, the Department has determined that algae blooms may occur when the pond averaged chlorophyll-*a* concentration exceeds 10 ppb. Second, as algae dies, it can sink to the bottom and decay, causing the depletion of oxygen at a later time as part of the sediment oxygen demand. Through the TMDL, the contribution of algae to sediment oxygen demand (SOD) is now better understood. As discussed above, additional growth of algae due to reduced color has added to the SOD load. This has contributed to non-attainment of dissolved oxygen levels for protection of salmonid fish first proposed by EPA in 1986. This constitutes a new interpretation of the narrative standard. A new interpretation may be based, as here, on newly developed information that allows the Department to more fully understand a particular water quality problem and the measures needed to remedy it. Since the Department is applying this new interpretation of the narrative standard for the first time in this permit, a schedule of compliance that is no longer than necessary to attain governing standards is both appropriate and legally permissible.

New information on discharge levels of phosphorus became available subsequent to the issuance the 9/21/05 permit. Though the permittee believes six data points collected between 9/21/05 and 9/30/05 is an insufficient data set to provide a technical basis for changing the compliance schedule, the Department determined the consistency in the data did provide a sound technical basis for reducing the schedule of compliance from five years down to two years. Further, the Department has evaluated the phosphorus data collected between June 1, 2006 and the present and the results are consistent with the levels discharged during September of 2005 and support this modification.

## **6. RESPONSE TO COMMENTS (cont'd)**

### **a. Compliance schedules (cont'd)**

The Department agrees with the permittee that because phosphorus is such an important component in maintaining a healthy biological waste water treatment system, there is some uncertainty in maintaining both low phosphorus discharge levels and a healthy treatment system. As the permittee stated in their comments on the draft permit, phosphorus deficiencies in a waste water treatment system have been known to cause excess filament growth, impede BOD and TSS removal and cause polysaccharide related bulking sludge.

The permittee submitted a document entitled, *Special Condition Q1: Nutrient Pollution Prevention & Biological Treatment Study Plan* to the Department for review and comment on June 2, 2006. The submission of the plan was proposed as a requirement in Special Condition Q, *Schedule of Compliance*, in the 5/11/06 draft permit modification. Being that the permittee has submitted the plan, the requirement in Special Condition Q(1) of the draft permit modification is being eliminated in the final document. The Department has not formally commented on the plan as of the date of this permitting action but the plan states that the objective is to "...put into place phosphorus controls, procedures and measures while carefully monitoring the biological health of the waste water treatment plant with an attentiveness and duration that will sufficiently note the health of the treatment plant during seasonal changes and during less frequent upset conditions as well as normal operations." Special Condition Q requires the permittee to provide the Department with annual progress reports (required by Department Rule Chapter 523(7)) on the treatment plant performance and if applicable, any proposed changes to the treatment plant or to manufacturing processes that will provide the permittee with a higher level of certainty that it will be in compliance with final phosphorus limitations that become effective on June 1, 2008. The Department has determined that a two-year schedule of compliance is necessary to provide for the permittee to gain the necessary experience in operating its waste water treatment facility with low level phosphorus discharges. Considering technological, economic and environmental factors, the Department concludes that the two year compliance schedule is no longer than necessary to attain governing standards.

### **b. Procedural Matters**

Comment #1 - The permittee has commented that the Department has not met the criteria in Maine law found at 38 M.R.S.A. §414-A(5)(B)(1 & 3) with respect to its proposal to eliminate the five-year schedule of compliance associated with the seasonal 60-day rolling average limitation for total suspended solids (TSS) and reduce the schedule of compliance associated with the final phosphorus limits from five years to two years. Other commenters voiced a general concern over the appropriateness of the permit modification process.

## 6. RESPONSE TO COMMENTS

### b. Procedural Matters (cont'd)

For TSS, the permittee indicates the Department inappropriately utilized the language "The department may initiate a license modification: (1) When necessary to correct legal, technical or procedural mistakes or errors." The permittee states, "Failing 'to adequately consider' factual material duly and properly supplied by RPC for the Department's consideration does not meet the 'mistake' standard by the statute, at best it demonstrates a lack of diligence on the part of the Department. The 'mistake' standard is not license for the Department, or any other party, simply to rethink the weight that it originally placed on data during the five years that the Department worked on the license and related TMDL. Adopting such a standard would allow the Department to re-open any license at any time for virtually any reason simply on the basis of Monday morning quarterbacking or applied political pressure, which appears to be the case before us now."

For phosphorus, the permittee indicates the Department inappropriately utilized the language "The department may initiate a license modification; (3) When information other than revised rules, guidance or other test methods becomes available that would have justified different conditions at the time the license was issued;" The permittee states "... the only 'new information' is the 6 data points collected between 9/21/05 and 9/30/05. RPC believes that 6 data points is not an adequate basis to establish an effluent limit, and thus cannot be considered 'new information' pursuant to §414-A(5)(B)(3)."

**Response #1** - Maine law, 38 M.R.S.A. §414-A(5)(A) ("... at the time of license issuance, the department may include as a condition of a license a provision for reopening the license for inclusion or change of specific limitations when facts available on issuance indicate that changed circumstances or new information may be anticipated."). Here the Department included just such a provision in RPC's permit at Special Condition R, *Reopening of Permit For Modifications*. The Special Condition states "Upon evaluation of... new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time, with notice to the permittee, modify this permit to .. change monitoring requirements or limitations based on new information considering ambient water quality conditions." Additional and independent statutory authority for the Department to modify a waste discharge license exists at 38 M.R.S.A. §§ 414-A(5)(B)(1)- (3) ("The Department may initiate a license modification when necessary to correct legal, technical or procedural mistakes or errors ... [or] when new information other than revised rules, guidance or test methods becomes available that would have justified different conditions at the time the license was issued"). See also 06-096 CMR Ch. 522(4) (describing the process for modification of a waste discharge permit).

The Department believes it has appropriately exercised its discretion to rely on Special Condition R as well as its independent statutory authority to re-open the permit to eliminate the schedule of compliance for the 60-day rolling average limitation for TSS and reduce the schedule of compliance from five years to two years for compliance with the final limitations for phosphorus. For TSS, eliminating the five-year schedule established in the 9/21/05 permit is appropriate given the facility has for the last five consecutive years discharged at or about 50% lower than the seasonal 60-day rolling

## 6. RESPONSE TO COMMENTS

### b. Procedural Matters (cont'd)

average limitation of 11,000 lbs/day. The Department committed what may be considered a legal or technical mistake by including in the original permit compliance schedules that were longer than necessary to attain governing standards. With respect to phosphorus, the post-permitting effluent data served to confirm and point up that mistake. Under these circumstances, and noting the procedural safeguards that protect a permittee's rights during a permit modification, the Department acted lawfully and appropriately by reopening the permit to eliminate the schedule of compliance for TSS as established in the 9/21/05 permit and reduce the schedule of compliance from five years to two years for compliance with the final limitations for phosphorus.

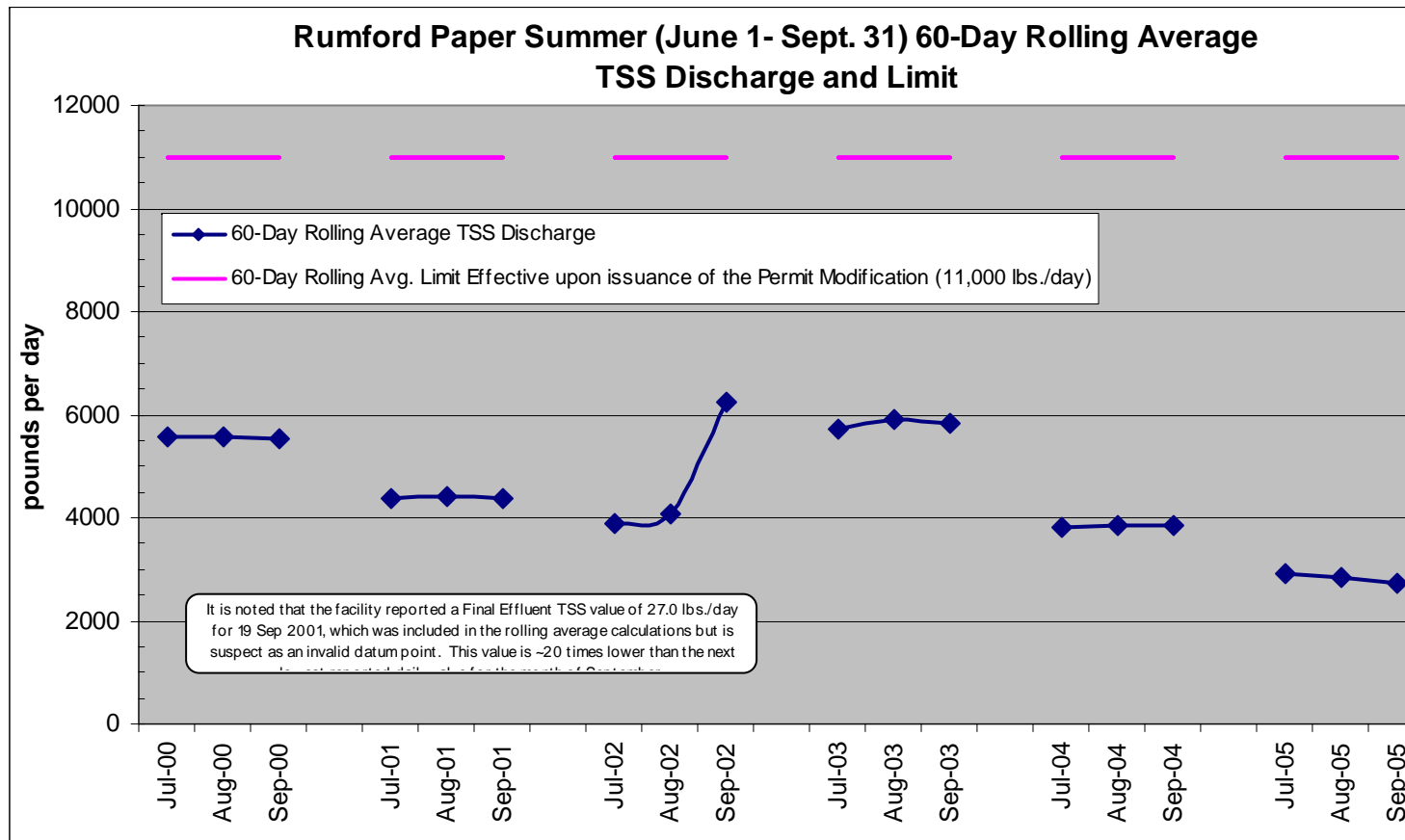
### c. Limitations Too High

**Comment #1** – Two commentators have asserted the BOD and TSS limits are too high given historic ambient water quality monitoring indicates there are violations of dissolved oxygen standards.

**Response #1** – The Department's EPA approved TMDL establishes a total daily maximum daily load for the pollutants of concern for applicable segment(s) of the Androscoggin River. The waste load allocated to each facility for each parameter was determined by the Department taking into consideration a number of factors for each facility including but not limited to: the treatment plant capacity, type of treatment, historic performance, status of future production, and other factors. In the end, the individual waste loads collectively are within the levels recommended in the final TMDL to achieve water quality standards. Therefore, based on the most current modeling information and after implementation of the terms and conditions in each permit, the Department and EPA anticipate compliance with water quality standards within a five -year period of time with this modification and the proposed modification to International Paper's permit. The Department concludes that the limitations for BOD and TSS for the RPC as proposed in the draft permit modification will meet water quality standards during the five year term of the permit if the International Paper permit modifications are finalized after the public hearing on those modifications.



# ATTACHMENT A



# ATTACHMENT B

